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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,950	11/18/2003	Miyuki Fukasawa	080542-0163	9191
22428 7590 04/11/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
TRAN, SUSAN T				
ART UNIT		PAPER NUMBER		
1618				
MAIL DATE		DELIVERY MODE		
04/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/714,950

Applicant(s)

FUKASAWA ET AL.

Examiner

S. Tran

Art Unit

1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/23/08 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 is rejected because it is unclear what is "sparklingly water soluble drugs". Could it mean "sparingly water-soluble drugs"?

Claim Rejections - 35 USC § 103

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricoh KK (assignee) JP 51104829A, in view of Morishita et al. US 3,943,063 and Seitz et al. US 5,169,826.

Ricoh teaches a process for preparing microcapsule comprising mixing an aqueous suspension of a core material with an aqueous solution of an inner wall material to form microcapsule in the aqueous medium, and then adding an aqueous suspension of a outer wall material (abstract). Core material comprises wax, inner wall material includes gum arabic, and outer wall material comprises hard resin such as polyvinyl acetate (PVA) (ID).

Ricoh does not explicitly teach the claimed cellulose derivative as an outer material.

Morishita teaches polymers suitable for the preparation of microcapsule include PVA, hydroxypropylmethyl cellulose phthalate (HPMCP), and natural polymer such as gum arabic (abstract; and column 4, lines 2-15). Morishita further teaches microcapsules having shell made of natural or synthetic polymer are suitable for a wide variety of core materials including drugs, enzymes, microorganisms, foods, agricultural, medicines, fertilizers, perfumes, and dyes (column 3, lines 55-58). Thus, it would have been obvious to one of ordinary skill in the art to modify the microcapsule of Ricoh using HPMCP as an outer wall material to obtain the claimed invention. This is because Morishita teaches the use of either PVA or HPMCP as a polymer is most fitted for the use of microcapsule (column 4, lines 1-20), and because Ricoh teaches the use of PVA or the like suitable for the formation of microcapsule wall.

It is noted that Ricoh does not explicitly teach the boiling point of the oily liquid core. However, it is well known in the art that microcrystalline wax has a boiling point of 100°C or higher. See for example, Seitz at column 3, lines 50-61.

Response to Arguments

The 103(a) rejections of the final office action dated 07/23/07 are withdrawn in view of applicant's amendment filed 01/23/08, and Declaration filed 12/18/07.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Tran whose telephone number is (571) 272-0606. The examiner can normally be reached on M-F 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Tran/
Primary Examiner, Art Unit 1618

